

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

CHARLOTTE BOONE,
Charging Party/Appellant

Case # 0109014354

-v-

FINAL AGENCY DECISION

GREAT FALLS TRANSIT,
Respondent

Charging Party, Charlotte Boone, filed a complaint with the Department of Labor and Industry (Department), which alleged discrimination in employment on the basis of retaliation. Following an informal investigation, the Department determined that a preponderance of the evidence supported Boone's allegations. The case went before the Hearings Bureau of the Department of Labor and Industry, which held a contested case hearing, pursuant to § 49-2-505, MCA. The hearings officer issued a Decision on November 25, 2011. The hearings officer determined that Boone failed to prove Great Falls Transit illegally retaliated against her on the basis of her prior participation in matters before the Human Rights Bureau.

Boone filed an appeal with the Montana Human Rights Commission (Commission). The Commission considered the matter on March 21, 2011. Charlotte Boone appeared *pro se* and presented oral argument on her own behalf. Kevin Meek, attorney, appeared and presented oral argument on behalf of Great Falls Transit.

STANDARD OF REVIEW

The Commission may reject or modify the conclusions of law and interpretations of administrative rules in the hearing officer's decision but may not reject or modify the findings of fact unless the Commission first reviews the complete record and states with particularity in the order that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. *Admin. Rules of Mont. 24.9.123(4)*. A factual finding is clearly erroneous if it is not

supported by substantial evidence in the record, if the fact-finder misapprehended the effect of the evidence, or if a review of the record leaves the Commission with a definite and firm conviction that a mistake has been made. *Denke v. Shoemaker*, 2008 MT 418, ¶ 39, 347 Mont. 322, ¶ 39, 198 P.3rd 284, ¶ 39. The Commission reviews conclusions of law to determine whether the hearing officer's interpretation and application of the law is correct. *See, Denke*, 39.

DISCUSSION

After careful consideration of the complete record and the argument presented by the parties, the Commission determines that the hearing officer's findings of fact were supported by substantial evidence and the hearing officer correctly applied the law. Consequently, the Commission affirms the hearing officer Decision in its entirety.

ORDER

IT IS HEREBY ORDERED, that the appeal of Charlotte Boone is denied. The Commission affirms, adopts and incorporates the entire Hearing Officer Decision, dated November 25, 2011, within this Final Agency Decision.

Either party may petition the district court for judicial review of the Final Agency Decision. *Sections 2-4-702 and 49-2-505, MCA*. This review must be requested within 30 days of the date of this order.

DATED this 28th day of March, 2012.

_____/lm minich/
L.M. Minich, Chair
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this 28th day of March, 2012.

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_____/tamnewby/_____
Tam Newby, Legal Secretary
Montana Human Rights Bureau